HON'BLE SRI JUSTICE A. GOPAL REDDY

WRIT PETITION NO.35081 OF 1998

DATE:05.07.2006

Between:

A.S.Developers & Builders Ltd., rep. by
its Managing Director, Shyam Kumar Ahuja

..... PETITIONER

AND

The Municipal Corporation of Hyderabad,
Rep.by its Commissioner, Tank bund,
Hyderabad and another.

.....RESPONDENTS

HON'BLE SRI JUSTICE A. GOPAL REDDY

W.P. No.35081 OF 1998

ORDER:

This Writ Petition has been filed questioning the action of the respondents in trying to demolish the construction undertaken by the petitioner in the premises bearing H.No.1-7-9 and 1-7-9/A, situated at Musheerabad, Hyderabad, which is alleged to have been proceeded under the deemed permission after issuing due notice as required under Section 440 of the H.M.C. Act.

It is to be seen that the petitioner has filed a suit in O.S.No.2885 of 1995 on the file of III Assistant Judge, City Civil Court, Hyderabad and obtained interim orders against the respondent-Corporation. Further, pursuant to the G.O.Ms. No.419, dated 30.7.1998 the petitioner applied for regularization of the construction by paying 20% of the penal amount and the same is said to have been accepted by the second respondent.

This Court, while admitting the writ petition, by order dated 17.12.1998 granted interim stay of demolition pending further orders. In spite of the same, so far, no counter affidavit has been filed by the respondent-Corporation for vacating the said orders.

None appears for the petitioner as well as the respondents.

Having regard to the facts and circumstances of the case, it is directed that the deviations, if any, in proceedings with the construction have not yet been regularized as per G.O.Ms.No.419, dated 30.7.1998, the respondent-Corporation is under obligation to take steps for demolition of such structures duly following the procedure prescribed under law and after giving notice and opportunity to the petitioner. Without issuing such notice pointing out the deviations, the

respondents cannot demolish the structures made by the petitioner.

With the above observation, the Writ Petition is disposed of. No costs.

A. GOPAL REDDY, J

05th JULY, 2006.
Tsr